IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 4725 of 2007

IN

FIRST APPEAL NO. 2241 OF 2007

IN

L.C. SUIT NO. 1380 OF 2003

Shri Joseph S. Lewis ... Appellant

Vs.

The Municipal Corporatioon for

Greater Mumbai. ... Respondents

Mr. J.M.D'Silva, Advocate, for the appellant.

Mr. J.J.Xavier, Advocate, for Respondents.

CORAM: J.H.BHATIA,J.

DATE: 19th October,2007.

P.C.

1. Heard learned Counsel for the parties.

2. Notice was issued by the Respondent-Corporation

under Section 351 of the B.M.C. Act to the appellant alleging that he had converted the user of certain property situated on plot No.42, TPS IV, Mahim, from residential to commercial. It appears that the appellant was granted interim stay pending the suit filed by him. However, the suit has been dismissed after hearing the parties.

3. Learned Counsel for the appellant points out that the order passed by the Municipal Corporation on 1.7.1998 permitting the conversion has not been considered by the trial Court. The order passed on 1.7.1998 duly permits the conversion of user on final plot No.42 to commercial. The impugned notice only speaks about Room No.16, but does not give any details about the said plot number. In the plaint, the plaintiff has specifically stated that the notice is issued pertaining to the structure standing on the plot No.42 about which permission has been granted for commercial use. The Appeal is already admitted. Taking into consideration the circumstances, I find that interim protection is necessary.

4. Hence, interim relief in terms of prayer (a) pending the Appeal.

(J.H.BHATIA,J.)